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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* DAVID G. BOYER, SHABBIR A. KHAKOO,  
VIPUL KISHORE LALKA, LEVENT SASMAZEL,  
and PREM SUMETPONG

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Appeal 2008-1866  
Application 10/672,635  
Technology Center 2600

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Decided: July 16, 2008

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Before KENNETH W. HAIRSTON, JOHN A. JEFFERY, and MARC S.  
HOFF, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-25. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

## STATEMENT OF THE CASE

Appellants invented a method for determining whether or not a person is present at a given device. Specifically, the user's presence status is determined based on information obtained from multiple data stores. In one implementation, information from at least one of these data stores is translated into a standard format. Presence status can also be determined based on aggregation and filter rules.<sup>1</sup> Claim 1 is illustrative:

1. A method for determining a presence status of a user, comprising:

obtaining presence information from a plurality of presence data stores;

translating said presence information from at least one of said presence data stores into a standard format; and

determining said presence status of said user based on said obtained presence information.

The Examiner relies on the following prior art reference to show unpatentability:

Staples

US 5,889,845

Mar. 30, 1999

Claims 1-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Staples (Ans. 3-5).

Rather than repeat the arguments of Appellants or the Examiner, we refer to the Briefs and the Answer for their respective details. In this decision, we have considered only those arguments actually made by Appellants. Arguments which Appellants could have made but did not make

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<sup>1</sup> See generally Spec. 3:10-22.

in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

## OPINION

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. *RCA Corp. v. App. Dig. Data Sys., Inc.*, 730 F.2d 1440, 1444 (Fed. Cir. 1984); *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554 (Fed. Cir. 1983).

### *The Independent Claims*

Regarding representative independent claim 1,<sup>2</sup> Appellants argue that Staples does not disclose translating presence information from at least one of the presence data stores into a *standard format* as claimed (App. Br. 3; Reply Br. 3; emphasis in original). According to Appellants, calls, email, faxes, and LAN data can be automatically forwarded to remote users without being in a standard format (Reply Br. 3). Regarding representative independent claim 13, Appellants argue that Staples does not disclose determining the presence status of a user based on *one or more rules* applied

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<sup>2</sup> Although Appellants argue independent claims 1, 13, 18, and 23 together as a group (App. Br. 2), Appellants argue the limitations of independent claims 1 and 18 separately from claims 13 and 23 (App. Br. 4). We therefore select (1) independent claim 1 as representative of the grouping consisting of claims 1 and 18, and (2) independent claim 13 as representative of the grouping consisting of claims 13 and 23. *See* 37 C.F.R. § 41.37(c)(1)(vii).

to obtained presence information (App. Br. 3-4; Reply Br. 3; emphasis in original).

The Examiner maintains that the plural data stores in Staples include the remote user's registration information (e.g., ID and security information), connection status with respect to the virtual presence server, and the information that Staples' virtual presence server uses to automatically forward calls, route email, faxes, and LAN data to remote users. According to the Examiner, this information must be in a standard format (Ans. 6). Regarding independent claim 13, the Examiner adds that Staples determines presence status of a user based on one or more rules that are applied to such presence information (Ans. 7).

The issue before us, then, is whether Appellants have shown that the Examiner erred in finding that the functionality of Staples' system that includes a virtual presence server (1) translates presence information from at least one of plural data stores into a standard format as claimed in representative claim 1, and (2) determines the presence status of a user based on one or more rules applied to obtained presence information from plural data stores as claimed in representative claim 13. For the following reasons, Appellants have not persuaded us that the Examiner erred in rejecting these claims.

Staples discloses a system that enables a remote user to maintain a virtual presence at an office and operate as if the user were physically at the office. The user first establishes a virtual presence connection at the office by providing identification and security information. Once the user is connected, the virtual presence server instructs the corporate PBX to automatically forward all calls to the remote user. The virtual presence

server also routes emails, faxes, and LAN data to the remote user. Additionally, the virtual presence server forwards telephone calls made to the user's home by routing the calls through the virtual presence server (Staples, Abstract; Figs. 1 and 2).

The process for establishing a virtual presence for a user is illustrated with respect to the remote user and the virtual presence server in Figures 12 and 13, respectively. As shown in Figure 13, the virtual presence server 106 initially receives a call from the remote computer system 102, and thereafter receives security data from the user (Staples, col. 20, ll. 23-29; Fig. 13 (Steps 522 and 524); Fig. 12 (Steps 502 and 504)). This security data is transferred to the virtual presence server according to a security protocol, and can include a password that is received and analyzed by the virtual presence server (Staples, col. 19, ll. 33-42).

Then, the virtual presence server receives identification information from the user indicating how the remote computer system can be accessed. This identification information can comprise not only caller ID information indicating the source telephone number, but also other types of identification information (Staples, col. 20, ll. 30-40; Fig. 13 (Step 526)). The virtual presence server then determines whether the security data and identification information are valid (Fig. 13 (Step 532)). Validating the caller ID information preferably involves determining if the source of the call matches a database of valid callers (Staples, col. 20, ll. 44-47). If the security and identification information are valid, the virtual presence server transfers a message to the corporate PBX to instantiate call forwarding (Staples, col. 20, ll. 41-62; Fig. 13 (Step 532)).

Turning to claim 1, we find the scope and breadth of the recited limitations does not preclude this functionality of Staples. First, the term “presence information” as claimed does not preclude the received security data and identification information—information that is received from multiple data stores (i.e., caller ID information from the PSTN, security information from the user’s remote computer system). Since this received information is directly associated with establishing the user’s virtual presence via the virtual presence server, the received information fully meets “presence information” as claimed.

Second, the very act of validating the received security and identification information (i.e., “presence information”) at the virtual presence server inherently involves translating the received information into a standard format, at least with respect to the virtual presence server. For example, validating the received caller ID information involves determining if the source of the call matches a database of valid callers (Staples, col. 20, ll. 44-47). This database comparison would involve at least some form of translation of the information to a standard format suitable for such a comparison. Furthermore, since the security information is transmitted to the virtual presence server via a security protocol (Staples, col. 19, ll. 35-38), some sort of translation of this information would occur to conform to such a protocol.

Furthermore, the virtual presence server’s ability to perform remote call forwarding operations translates presence information to a standard format. Significantly, the virtual presence server can forward or route telephone calls made to a first telephone number to a second telephone number (Staples, col. 14, l. 44 - col. 15, l. 7). In addition to the security and

identification information noted above, these telephone numbers themselves constitute “presence information” in that they are associated with a remote user’s virtual presence via the virtual presence server. The very act of correlating the first telephone number with the second telephone number in this call forwarding process would therefore involve translating the presence information (i.e., the first telephone number) into a “standard format” (i.e., the second telephone number).

We likewise find that this functionality in Staples fully meets determining presence status based on one or more rules applied to the obtained presence information as claimed in representative independent claim 13. First, the virtual presence server’s validating the received caller ID information via the database comparison noted previously involves at least applying a matching rule with respect to the callers in the database. Second, since the security information is transmitted to the virtual presence server via a security protocol (Staples, col. 19, ll. 35-38), the virtual presence server would apply some sort of rule conforming to the given protocol to extract this received information. Third, the very act of correlating the first telephone number with the second telephone number in this call forwarding process would involve applying a rule to the presence information (i.e., the first telephone number) to facilitate the forwarding the call to the second telephone number. Lastly, we agree with the Examiner that the inactivity disconnect timer set by the virtual presence server (Staples, col. 22, ll. 14-31) effectively applies a time-based rule with respect to the remote user’s presence on the system.

For the foregoing reasons, Appellants have not persuaded us of error in the Examiner’s rejection of representative independent claims 1 and 13.



Therefore, we will sustain the Examiner's rejection of those claims, and independent claims 18 and 23 which fall with claims 1 and 13, respectively. We will also sustain the Examiner's rejection of dependent claims 2-7, 10-12, 14, 15, and 19-22 which were not separately argued.

*Claims 8, 9, 16, 17, 24, and 25*

At the outset, we note that apart from a conclusory assertion that Staples fails to disclose one or more rules that filter/aggregate the obtained presence information (App. Br. 4; Reply Br. 4), Appellants provide no explanation or analysis pointing out specifically why the Examiner's position is deficient. Merely pointing out what a claim recites is not considered an argument for separate patentability of the claim. 37 C.F.R. § 41.37(c)(1)(vii).

In any event, the fact that the virtual presence server in Staples collects both security information and identification information from the user for validation purposes (Staples, col. 20, ll. 30-40; Fig. 13 (Step 526)) fully meets an aggregation rule as claimed in representative claim 8.<sup>3</sup> That the identification information can itself comprise multiple types of information (Staples, col. 20, ll. 38-40) only reinforces our conclusion that the received presence information is aggregated.

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<sup>3</sup> Although Appellants argue claims 8, 9, 16, 17, 24, and 25 together as a group, Appellants' arguments at least nominally separately address limitations found in claim 8 (aggregation) and claim 9 (filtering), respectively (App. Br. 4). Accordingly, we treat claims 8 and 9 separately and select those claims as representative of their respective groups of claims that recite commensurate limitations.

Regarding representative claim 9, Staples' validation process that utilizes the received security and identification information fully meets a filter rule as claimed. That is, if the security and identification information are not valid, the virtual presence server refuses access to the caller (i.e., the caller is denied presence status) (Staples, col. 20, ll. 52-54; Fig. 13 (Step 532)).

For the foregoing reasons, Appellants have not persuaded us of error in the Examiner's rejection of representative claims 8 and 9. Therefore, we will sustain the Examiner's rejection of those claims, and claims 16, 17, 24, and 25 which fall therewith.

#### DECISION

We have sustained the Examiner's rejection with respect to all claims on appeal. Therefore, the Examiner's decision rejecting claims 1-25 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2008-1866  
Application 10/672,635

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